United Nations A/67/227

General Assembly

Distr.: General
3 August 2012

Original: English

Sixty-seventh session
Item 28 of the provisional agenda*

Advancement of women

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on Violence against Women, its Causes and Consequences, Rashida Manjoo, in accordance with General Assembly resolution 65/187.

* A/67/150.

12-45120 (E) 110912

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Report of the Special Rapporteur on violence against women, its causes and consequences

Summary

The present report is the second submitted by the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, to the General Assembly, pursuant to resolution 65/187. The report provides an overview of the activities of the Special Rapporteur and discusses the issue of violence against women with disabilities.

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I. Introduction

1. The present report is the second submitted by the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, to the General Assembly, pursuant to Assembly resolution 65/187. Section II summarizes the activities of the Special Rapporteur carried out between October 2011 and July 2012, and section III discusses the issue of violence against women with disabilities.

II. Activities

A. Country visits

2. In the period under review, the Special Rapporteur conducted official country missions to Jordan, from 11 to 24 November 2011; Somalia, from 9 to 16 December 2012; Italy, from 15 to 26 January 2012; Solomon Islands, from 12 to 16 March 2012; and Papua New Guinea, from 18 to 26 March 2012.

3. In 2012, the Special Rapporteur received positive replies to her requests to visit Bosnia and Herzegovina, Croatia and India and is thankful to the respective Governments in that regard. She urges Governments that have not yet responded to do so favourably and looks forward to receiving positive responses from the Governments of Bangladesh, Nepal, Turkmenistan, Uzbekistan, Venezuela (Bolivarian Republic of) and Zimbabwe.

B. Thematic report

4. The thematic report of the Special Rapporteur (A/HRC/20/16), submitted to the Human Rights Council in June 2012, focused on gender-related killings of women. Such killings are the extreme manifestation of existing forms of violence against women. They are not isolated incidents that arise suddenly and unexpectedly, but represent the ultimate act of violence that is experienced in a continuum of violence. The report highlighted that, on a global scale, the prevalence of different manifestations of gender-related killings was reaching alarming proportions. Culturally and socially embedded, such manifestations have continued to be accepted, tolerated or justified — with impunity as the norm. The responsibility of States to act with due diligence in the promotion and protection of women's rights in general, and to a life free of violence in particular, was found to be largely lacking.

C. Communications and press releases

5. The communications sent to Governments concern a wide array of issues that reflect a pattern of inequality and discrimination related to violence against women, its causes and consequences (see A/HRC/20/30 and A/HRC/19/44). The Special Rapporteur regrets that very few Governments have replied to the communications sent to them during the reporting period.

6. The Special Rapporteur also issued press statements, either individually or jointly with other mandate holders.

D. Commission on the Status of Women

7. On 29 February 2012, the Special Rapporteur submitted a written statement to the Commission on the Status of Women, in which she highlighted the need to ensure the social, cultural and economic participation and empowerment of rural women.

E. Other activities

8. During the reporting period, the Special Rapporteur participated in a number of conferences, workshops and side events on topics related to her mandate.

9. On 12 October 2011, the Special Rapporteur convened an expert group meeting in New York to inform her thematic report on gender-related killings of women.

10. In June 2012, she organized a regional expert meeting in Tunis, together with the Tunisia office and North Africa office of the Office of the United Nations High Commissioner for Human Rights (OHCHR). The meeting brought together experts and academics from the region and focused on the responsibility of the State in exercising due diligence to prevent and eliminate violence against women.

11. During the twentieth session of the Human Rights Council in June 2012, the Special Rapporteur convened a side event, with the independent expert on human rights in Somalia, on women's rights in Somalia.

III. Report on violence against women with disabilities

A. Background

12. Women with disabilities make up a significant part of the world's population. According to the 2011 *World Report on Disability* of the World Health Organization and World Bank, it is estimated that approximately 15 per cent of the world's population lives with some form of disability. The disability level threshold indicates that the male disability prevalence rate is 12 and the female 19.2. Based on such figures, it is clear that women with disabilities constitute a significant portion of the global population. Despite the evolution of normative frameworks concerning both the human rights of women and of persons with disabilities, the impact of the combined effects of both gender and disability have not gained sufficient attention, and violence against women with disabilities remains largely unaddressed.

13. The 2011 report to the Human Rights Council of the Special Rapporteur on violence against women, its causes and consequences (A/HRC/17/26) focused on the multiple and intersecting forms of discrimination that contribute to and exacerbate violence against women, noting that factors such as ability, age, access to resources, race/ethnicity, language, religion, sexual orientation and gender identity and class can exacerbate the violence women experience. Although women with disabilities experience many of the same forms of violence that all women experience — when gender, disability and other factors intersect — the violence against them takes on unique forms, has unique causes and results in unique consequences.

14. In recent years, the experiences of women with disabilities have become somewhat more visible. An analysis of the intersection between the provisions of the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities, along with various United Nations resolutions and policy statements on human rights, women's rights and the rights of persons with disabilities, demonstrates the synergy that exists to foster changes in law, policy and practice in order to ensure the inclusion of women with disabilities in understanding and responding to violence against women.

15. In its resolution 17/11, the Human Rights Council requested OHCHR to prepare a thematic analytical study on the issue of violence against women and girls and disability in consultation, inter alia, with the Special Rapporteur on violence against women, its causes and consequenccs. The resulting report (A/HRC/20/5 and Corr.1) was based on the submissions received from Member States, United Nations agencies and programmes, national human rights institutions and non-governmental organizations.

16. The present report aims to deepen the findings of the OHCHR study and further examine the manifestations, causes and consequences of violence against women with disabilities. In addition, the report briefly examines relevant international and regional legal frameworks and provides recommendations.

B. Social model understanding of violence against women with disabilities

17. An analysis of violence against women with disabilities must be informed by, and reflective of, a social model understanding of disability, in keeping with the Convention on the Rights of Persons with Disabilities. The preamble and article 1 of the Convention on the Rights of Persons with Disabilities introduce the social model of disability by describing disability as a condition arising from interaction with various barriers that may hinder disabled peoples' full and effective participation in society on an equal basis with others. Such a perspective does not deny the reality of impairment or its impact on an individual. It does, however, challenge the physical and social environments and the legal frameworks that have a negative impact on persons with disabilities.

18. Many policies operate on the assumption that a disabling condition is pathological and a defect, and not a socially ascribed so-called deficit.[1] The impact of such a perspective is clear: persons with disabilities are to be avoided and/or excluded, as opposed to accommodated and included in the community.[1] According to the Convention on the Rights of Persons with Disabilities, accommodation, inclusion and support are the obligated responses to disability, including for families of persons with disabilities.

19. The "gender-mainstreaming, disability-inclusive" approach draws upon a feminist-disability discourse that seeks to challenge dominant assumptions about living with a disability, and it situates the disability experience in the context of rights and exclusions. It also questions the assumption that disability is a flaw or a deficiency. To do so, it defines disability broadly from a social rather than a medical

[1] Janet E. Lord, "The Convention on the Rights of Persons with Disabilities and antenatal screening for disability", expert opinion prepared for Saving Downs New Zealand, 2012.

perspective. Disability, it is argued, is a cultural interpretation of human variation rather than an inherent inferiority, pathology to cure, or an undesirable trait to eliminate.[2]

20. Women with disabilities experience both the stereotypical attitudes towards women and towards persons with disabilities. Both the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities recognize the role of stereotypes in the denial of human rights towards women with disabilities. The impact of stereotypical views of women with disabilities includes rolelessness, the absence of sanctioned social roles and/or institutional means to achieve these roles and can cultivate a psychological sense of invisibility, self-estrangement, and/or powerlessness.[3]

21. Social sanctions relating to poverty, race/ethnicity, religion, language and other identity status or life experiences can further increase the risk of group or individual violence for women with disabilities.[4] Women with disabilities who also belong to (or are perceived as belonging to) disfavoured or minority groups may face compounded violence and discrimination based on several factors simultaneously. The recognition of that reality — variously referred to as intersectionality, multidimensionality, and multiple forms of discrimination — is important to any examination of violence against women with disabilities.

22. Indigenous women with disabilities often experience multiple forms of discrimination and face barriers to the full enjoyment of their rights, based on their indigenous status, their disability and their female identity. The incidence of violence against them is heightened by factors, such as living in a context of high levels of alcohol and substance abuse, which leads to violence against them; cultural and linguistic barriers; lack of education services for children with disabilities in native communities; and systemic poverty.[5] They may also encounter barriers resulting from the use of conflicting or complex traditional and contemporary justice and service systems.[5]

23. Rural women generally have less access to resources, training and skill development opportunities — due to high levels of illiteracy, the prevalence of negative stereotypes and their overall socioeconomic status. The final report of a workshop on women and disability conducted by the Economic and Social Commission for Asia and the Pacific in Bangkok in 2003 indicates that more than 80 per cent of women with disabilities in rural areas in Asia and the Pacific have no independent means of livelihood and are thus dependent on others for their economic survival. Inaccessible environments and lack of services, and lack of information and awareness, education, income and contact further exacerbate the situation, resulting in further isolation and invisibility. In the general statement adopted at its fiftieth session on 19 October 2011, the Committee on the Elimination of Discrimination against Women noted that violence against women, including

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[2] Rosemarie Garland-Thomson, Feminist disability studies, *Signs: Journal of Women in Culture and Society*, vol. 30, No. 2 (2005).

[3] Michelle Fine and Adrienne Asch, "Disabled women: sexism without the pedestal", *Journal of Sociology and Social Welfare*, Soc. vol. 8, No. 2 (1981).

[4] Johanna Bond, "International intersectionality: a theoretical and pragmatic exploration of women's international human rights violations", *Emory Law Journal*. vol. 52, No. 71 (2003).

[5] Doreen Demas, "Triple jeopardy: native women with disabilities", *Canadian Woman Studies*, vol. 13, No. 4 (1989), pp. 53-55.

trafficking in women, sexual exploitation and forced labour, is often linked to poverty and lack of opportunities in rural areas.

24. Women with disabilities who are members of minority groups are subject to multiple forms of discrimination and violence because of their race/ethnicity, gender and disability status combined. They may be subject to discrimination in access to education, employment, and health care; and may be denied reasonable accommodations.[6] Women of colour with disabilities who do seek preventive support or access to justice are subject to discriminatory practices that treat them as not credible or as "contributors" to their own abuse. Some resist seeking justice in formal systems that they see, at best, as unresponsive to their needs and, at worst, as destructive to their peoples as a whole.[7] Furthermore, despite their own efforts to be heard about the violence they experience, they might be effectively silenced both by community social sanctions and ineffective anti-violence laws.

25. Women with disabilities in conflict or post-conflict regions may be at additional risk of violence as members of a targeted race/ethnic, religious or linguistic group and may have greater difficulty in accessing services in the conflict environment.[8] Women with disabilities face additional burdens in refugee camps because the facilities are rarely accessible or designed to meet their specific needs. Serious problems with the physical layout and infrastructure of refugee camps have been noted by some organizations.[9] Such problems mean that services, including toilets, shelters and health facilities will not be accessible to people with disabilities and that no special accommodations are made to ensure accessibility to the food and supplies they need on a daily basis. In addition, because camps and facilities are generally inaccessible, most persons with disabilities are forced to remain in them.[9] Furthermore, justice and post-conflict reconciliation activities generally do not include women with disabilities, nor are such programmes made accessible or inclusive.

26. Undocumented women with disabilities may be at higher risk of violence because of the aggressor's control over immigration status; language barriers; distrust of the police force; and barriers to social and public services.[10]

27. Lesbians and other sexual minorities who identify as female and who have disabilities confront social barriers, isolation, exclusion and violence due to both sexual minority status and disability. Lesbians with psychosocial disabilities have been largely excluded or overlooked in research and treatment, despite their usage of mental health-care and other psychosocial services. They sometimes experience a

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[6] Margaret Nosek, and others, "Disability, psychosocial and demographic characteristics of abused women with disabilities", *Violence against Women*, vol. 12, No. 9 (Sept. 2006), pp. 838-850.

[7] Aarati Kasturirangan, Sandhya Krishnan and Stephanie Riger, "The impact of culture and minority status on women's experience of domestic violence", *Trauma Violence Abuse*, vol. 5, No. 4 (2004), 318-332.

[8] Stephanie Ortoleva, "Women with disabilities: the forgotten peacebuilders", *Loyola of Los Angeles International and Comparative Law Review*, vol. 33 (2010).

[9] Women's Refugee Commission, *Disabilities Among Refugees and Conflict-Affected Populations* (New York, 2008).

[10] Julissa Reynoso, "Perspectives on intersections of race, ethnicity, gender, and other grounds: Latinas at the margins", *Harvard Latino Law Review*, vol. 7 (2004), pp. 64-73.

"cultural contradiction" imposed by society since lesbianism is viewed as a sexual identity, while women with disabilities are often stereotyped as asexual.[11]

28. The forced sterilization of women with disabilities remains a global problem.[12] Women with disabilities who elect to have a child are often criticized for their decision and face barriers in accessing adequate health care and other services for themselves and their children.[13] Although society's fear that women with disabilities will produce so-called "defective" children is for the most part groundless, such erroneous concerns have resulted in discrimination against women with disabilities from having children. There is a dichotomy between the notions, on the one hand, that motherhood is expected of all women and, on the other, that women with disabilities are often discouraged, if not forced, to reject motherhood roles, despite their personal desires.[3] Research shows that no group has ever been as severely restricted, or negatively treated, in respect of their reproductive rights, as women with disabilities.[14]

29. The 2009 World Health Organization (WHO) guidance note on promoting sexual and reproductive health for persons with disabilities highlighted the fact that women with disabilities are considered in some societies to be less eligible marriage partners and may therefore find themselves in unstable relationships.[3] Additionally, if such unstable relationships become abusive, women with disabilities have fewer legal, social and economic options and may be further discriminated against.[3] For example, in the event of child custody disputes, courts may use the discriminatory stereotype that the non-disabled partner must be a more competent parent, when awarding custody.[15]

30. Older women experience disability more frequently as they age, and older women with disabilities are at particularly high risk of violence. Older women face multiple forms of discrimination, with gender, disability and age compounded by other forms of discrimination. General recommendation No. 27 of the Committee on the Elimination of Discrimination against Women, on older women and protection of their human rights, recognizes that, inter alia, gender stereotyping and traditional and customary practices can have harmful impacts on all areas of the lives of older women, in particular those with disabilities, and can result in physical violence as well as psychological, verbal and financial abuse.

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[11] Shelley Tremain, ed., *Pushing the Limits: Disabled Dykes Produce Culture* (Women's Press, 1996).

[12] Women With Disabilities Australia, "Sterilization of women and girls with disabilities — an update on the issue in Australia" (December 2010).

[13] World Health Organization, *Promoting sexual and reproductive health for Persons with Disabilities: World Health Organization/United Nations Population Fund Guidance Note* (2009).

[14] Rannveig Traustadottir, "Obstacles to equality: the double discrimination of women with disabilities: overview article" (1990).

[15] Elizabeth Lightfoot, Katharine Hill and Traci LaLiberte, "The inclusion of disability as a condition for termination of parental rights", *Child Abuse and Neglect*, vol. 34 (2010), pp. 927-934.

C. Manifestations of violence against women and girls with disabilities

31. Violence against women with disabilities occurs in various spheres, including in the home, the community, as violence that is perpetrated and/or condoned by the State and as violence against women in the transnational sphere. The forms of violence to which women with disabilities are subjected can be of a physical, psychological, sexual or financial nature and include neglect, social isolation, entrapment, degradation, detention, denial of health care, forced sterilization and psychiatric treatment. Women with disabilities are twice as likely to experience domestic violence as non-disabled women, and are likely to experience abuse over a longer period of time and to suffer more severe injuries as a result of the violence.[16]

32. Women with disabilities are at high risk of violence based on social stereotypes and biases that attempt to dehumanize or infantilize, exclude or isolate them, and target them for sexual and other forms of violence. Violence also has the consequence of contributing to the incidence of disability among women.

33. Women with disabilities may be subjected to situations of physical discomfort or embarrassment because their right to privacy is undervalued or not valued at all. Home assistants, family members or others who provide assistance may inflict violence through purposeful neglect (for example, leaving a woman who is in bed or who uses a wheelchair with no assistance for long periods in order to "punish" or manipulate her). Others may confine a woman with disabilities to her home or isolate her from other human contact. Mobility aids, communication equipment or medications may be withheld, causing physical injury or mental and emotional suffering.

34. In domestic violence situations, women with disabilities may fear reporting or leaving an abuser because of emotional, financial or physical dependence; they may also fear losing custody of their children. Barriers to accessing justice further complicate their ability to seek redress and protection, thereby allowing for the continuation of the abuse.

35. Women with disabilities experience rape and sexual abuse at home, at work, at school or on the street (see A/61/122/Add.1 and Corr.1). Others experience rape and sexual abuse within institutions, both state and non-state.

36. Women with disabilities are often treated as if they have no control, or should have no control, over their sexual and reproductive choices. They may be forcibly sterilized or forced to terminate wanted pregnancies — under the paternalistic guise of "for their own good". This is done sometimes with the sanction of partners, parents, institutions or guardians. There is a long history of socially and even legally sanctioned forced and non-consensual sterilization of women with disabilities. Despite legal prohibitions in some countries, involuntary sterilization is used to restrict the fertility of some persons with disabilities, particularly those with intellectual disabilities.[17] Sterilization also has been used as a technique for menstrual management.

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[16] Women With Disabilities Australia, "Valuing South Australia's women: towards a women's safety strategy for South Australia", discussion paper prepared for the government of South Australia, 2004.

[17] Owen Dyer, "Gynaecologist is struck off for sterilising women without their consent", *British Medical Journal*, vol. 325 (2002); Laurent Servais, "Sexual health care in persons with

37. Denying access to reproductive health care, or forcing women with disabilities to undergo procedures aimed at controlling their reproductive choices, is a form of violence against women. The Programme of Action of the International Conference on Population and Development recognizes the basic right of all individuals to make decisions concerning reproduction free of discrimination, coercion and violence; to have the information and means to do so; and the right to attain the highest standard of sexual and reproductive health. The Programme of Action also recognizes that these rights apply to persons with disabilities.

38. In institutional settings, women with disabilities are subjected to numerous forms of violence, including the forced intake of psychotropic drugs or other forced psychiatric treatment. Furthermore, forced institutionalization itself constitutes a form of violence. People with mental health conditions and intellectual disabilities are sometimes subject to arbitrary detention in long-stay institutions with no right of appeal, thereby robbing them of their legal capacity.[18]

39. Women in institutions who need support services are usually more vulnerable. Vulnerability, both in institutions and in community settings, can range from the risk of isolation, boredom and lack of stimulation, to the risk of physical and sexual abuse. Evidence suggests that people with disabilities are at higher risk of abuse for various reasons, including dependence on a large number of caregivers and also because of barriers to communication.[19] One study found that the majority (68 per cent) of psychiatric outpatients in a hospital had experienced major physical and/or sexual assaults therein, a higher frequency than in the general population.[20]

40. Violence against women may be permitted by law or carried out under the authority of the State.[21] States may fail to fulfil their obligation to respond to and prevent violence against women with disabilities either through the adoption and implementation of laws and practices that directly violate rights, or by failing to adopt and implement laws and practices that uphold rights.

41. Women with disabilities face a number of obstacles in the justice system, including the systematic failure of the court system to acknowledge them as competent witnesses. This exclusion is particularly problematic in cases involving sexual assault or other forms of gender-based violence, in which the complaining

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intellectual disabilities", *Mental Retardation and Developmental Disabilities Research Reviews*, vol. 12 (2006); Sonia R. Grover, "Menstrual and contraceptive management in women with an intellectual disability", *The Medical Journal of Australia*, vol. 176 (2002); A. J. Stansfield, A. J. Holland and I. C. H. Clare, "The sterilisation of people with intellectual disabilities in England and Wales during the period 1988 to 1999", *Journal of Intellectual Disability Research*, vol. 51 (2007).

[18] Lisa Adams, "The right to live in the community: making it happen for people with intellectual disabilities in Bosnia and Herzegovina, Montenegro, Serbia and Kosovo", Disability Monitor Initiative for South East Europe (Handicap International Regional Office for South-East Europe, 2008); and Germana Agnetti, "The consumer movement and compulsory treatment: a professional outlook", *International Journal of Mental Health*, vol. 3 (2008).

[19] Dick Sobsey, *Violence and Abuse in the Lives of People with Disabilities: the End of Silent Acceptance?*, Paul H. Brookes, ed. (Baltimore, Maryland, Brookes Publishing, 1994).

[20] A. Jacobson, "Physical and sexual assault histories among psychiatric outpatients", *The American Journal of Psychiatry*, vol. 146, No. 6 (1989), p. 755.

[21] A. B. Andrews and L. J. Veronen, "Sexual assault and people with disabilities", *Journal of Social Work and Human Sexuality*, vol. 8, No. 2 (2006); and The International Network of Women with Disabilities, "Violence against women with disabilities", Center for Women Policy Studies (2011).

witness may provide key evidence necessary for a conviction. Sexual abuse cases involving a complainant with learning disabilities rarely go to court, and if they do, the complainant frequently does not serve as a witness against the accused.[22] The tendency to "infantilize" women with mental disabilities contributes to the discounting of their testimony.[23] Not only are they excluded as witnesses because they may have difficulty communicating with the police, but stereotypes operate to exclude or discount their testimony. For example, in sexual assault cases, the general failure of society to see people with disabilities as sexual beings may result in judges and juries discounting the testimony of witnesses.[24] On the other hand, complaints may be disregarded because of views and beliefs about some women with mental disabilities as hypersexual and lacking self-control.

42. Law enforcement and legal agencies may dismiss complaints since they see women with disabilities who require assistive communication or accommodations, as well as women with psychosocial and intellectual disabilities, as lacking credibility.[25] There may also be a tendency for judges to require more corroborating evidence of an assault in cases involving women with disabilities than in other cases, and evidence about prior mental health treatment may be used to discredit the testimony of such witnesses.[24] Women with cognitive disabilities may have more difficulty with remembering the sequence of events, which may make them appear less credible on the stand.[24] The failure to afford the testimony of women with disabilities due respect is problematic in gender-based violence and sexual assault cases, where the testimony of the parties and the credibility of the witnesses are exceptionally important.[26] Women with disabilities face violence at least one and one-half times more often than other women.[25] Thus, excluding them from the witness stand denies the reality that they face violence to a disproportionate degree.

43. Paternalistic attitudes towards persons with disabilities may also prevent full and fair access to the witness stand. Various players in the judicial system may view women with disabilities as too fragile to withstand the rigors of examination by attorneys or judges, leading to their exclusion.[26] Such exclusion has the effect of placing them at even greater risk since perpetrators may target women with disabilities because they know that complaints may be taken less seriously. Moreover, women with disabilities whose complaints have been dismissed are less likely to come forward again to report abuse.[26]

44. The institutions, the physical structures and legal proceedings may place substantial barriers to accessibility and participation of witnesses with disabilities. There is evidence that language used in the courtroom, in particular during the cross-examination process, can be distressing and confusing to some witnesses with

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[22] Pamela Cooke and Graham Davies, "Achieving best evidence from witnesses with learning disabilities: new guidance", *British Journal of Learning Disabilities*, vol. 29 (2001).

[23] Janine Benedet and Isabel Grant, "Hearing the sexual assault complaints of women with mental disabilities: evidentiary and procedural issues", *McGill Law Journal*, vol. 52 (2007), pp. 531 and 532.

[24] Hilary Brown, "Sexual abuse: facing facts", *Nursing Times*, vol. 87 (1991).

[25] Disability Discrimination Legal Service, "Beyond belief, beyond justice: the difficulties for victims/survivors with disabilities when reporting sexual assault and seeking justice" (November 2003), p. 17.

[26] Chris Jennings, "Family violence and sexual assault: a criminal justice response for women with disabilities", paper presented at a forum on the theme "Disability and the criminal justice system: achievements and challenges", Melbourne, Australia, 13 July 2005.

a cognitive or learning disability.[25] Cross-examinations may involve trick questions, hypothetical questioning, and "leading and lengthy" questions with double negative phrasing, which are often confusing to people with and without a cognitive disability.[25] Furthermore, owing to the mode of questioning, people with intellectual disabilities may give the answers that they think will satisfy the interrogator.[25] It has been suggested that judges should more actively intervene in proceedings to encourage clearer communication and that support services should be offered to witnesses with a cognitive disability to ensure that they can navigate the trial process.[25]

45. Courthouses and police stations may also not have the resources necessary to ensure that witnesses with disabilities have the ability to adequately communicate with the police or to access information. During initial police questioning for example, sign language interpreters may not be readily accessible to assist women. Information may not be available in Braille or other alternative formats.[27] Furthermore, information about legal rights is often not provided in formats that are clear, easy to understand and use plain language, thus preventing women with disabilities who have limited reading skills from understanding their rights.[27] In such circumstances, acts of violence against women with disabilities will remain unpunished.

46. Stereotypical views of women with disabilities may be imposed on their parental rights or through the termination of parental rights. According to Women with Disabilities Australia, it is relatively common for everyday stereotypes and deeply rooted beliefs about women with disabilities to be legitimized in family court and used against them in a divorce hearing or custody trial. Due to such prejudices, many women have lost custody and even visitation rights with their children.

47. Though disability laws may prohibit discrimination in social services, these laws do not always extend to child custody and protection proceedings.[28] As a result, divorce proceedings and child custody hearings may focus on the mother's disability as opposed to her parenting behaviour, thereby implicitly equating parental disability with parental unfitness.[28]

48. Also, women with disabilities may experience greater regulation and prejudice by social service agencies.[28] Thus the child's "best interests" may be seen as primary to, and at odds with, the maternal rights of women with disabilities.[29] According to the Guide for Creating Legislative Change, women with a psychosocial, developmental or intellectual disability may be at particular risk of greater regulation and termination of parental rights.

49. Fear of unjustified termination of parental rights may cause women with disabilities to remain in abusive relationships. The denial of legal capacity, which includes restrictions on the right of women with disabilities to testify in the courts, the failures of the justice system to respond to the abuse of women and girls with disabilities, and/or the inability to see them as credible witnesses, perpetuates and

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[27] Stephanie Ortoleva, "Inaccessible justice: human rights, persons with disabilities and the legal system", International Law Society of America, *Journal of International and Comparative Law* (2011).

[28] Dyer, Servais, Grover, Stansfield, Holland and Clare (see footnote 17 above).

[29] Phyllis Chesler, *Mothers on Trial: the Battle for Children and Custody* (1985).

reinforces abuse. Thus, eliminating such discriminatory practices is essential to addressing violence against women with disabilities.

50. The discrimination and violence faced by women with disabilities in society tends to be exacerbated by prison environments. In the *Handbook on Prisoners with Special Needs*, the United Nations Office on Drugs and Crime (UNODC) recognized that women prisoners with disabilities were at a particularly high risk of manipulation, violence, sexual abuse and rape and that prisoners with physical disabilities might be actively targeted or suffer the effects of having their special needs, including safety needs, neglected. Furthermore, according to the Prison Rape Elimination Act of 2003 of the United States of America most prison staff is not adequately trained to prevent or respond to inmate sexual assaults, and prison rape often goes unreported and untreated.

51. There is evidence that the experience of prison itself is a source of disablement for all prisoners.[30] Thus, not only are women with pre-existing disabilities liable to see their disabilities aggravated but those who enter prison without disabilities may develop them during their incarceration, due to prison conditions.[30]

52. Women with disabilities in prison also face discrimination upon their assignment to a particular facility, due to misclassification of their risk level. In the *Handbook on Prisoners with Special Needs*, UNODC also noted that, owing to the limited accommodation available for them, female prisoners in a number of countries are housed in security levels not justified by their risk assessment undertaken upon admission. This is exemplified in cases where a prisoner who would normally be placed in an open facility can instead be sent to secure custody, should a member of the medical, psychological or psychiatric staff decide that the medical and support services required are unavailable in open custody.[31]

53. Discrimination in access to services and programmes during incarceration is a reality for most women with disabilities. They may face difficulties in accessing these because such programmes fail to account for their disabilities;[32] or they may be explicitly denied the ability to participate in programmes, which are largely tailored to prisoners without disabilities.[31] Furthermore, women with disabilities who are able to participate in work programmes are often paid lower wages for their work.[32]

54. A common factor considered by parole boards and other bodies determining the appropriateness of the early release of prisoners is the ability of a prisoner to adapt to life in the outside world. This can be a difficult threshold for any prisoner to meet, but especially so in the case of women with disabilities who may have specific needs that the board may not adequately take into consideration.[33] The problem is exacerbated by the misclassification of such women as higher risk prisoners, which makes it much more difficult to secure an earlier release.[33]

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[30] Beth Ribet, "Naming prison rape as disablement: critical analysis of the Prison Litigation Reform Act, the Americans with Disabilities Act and the imperatives of survivor-oriented advocacy, *Virginia Journal of Social Policy and the Law* (2010).

[31] Anti-Discrimination Commission Queensland, *Women in Prison* (2006).

[32] Megan Bastick and Laurel Townhead, Quaker United Nations Office, "Women in prison: a commentary on the UN standard minimum rules for the treatment of prisoners", *Human Rights and Refugees Publications* (2008).

[33] Judith Cockram, "People with an intellectual disability in the prisons", *Psychiatry, Psychology and Law* (2005).

55. A compilation of British studies found that 20 to 30 per cent of offenders had learning disabilities or difficulties that interfered with their ability to cope within the criminal justice system and that the female prison population was five times more likely to have a mental health disability than the general population.[34] Another study found that as many as 80 per cent of female detainees had at least one psychiatric disability.[35] Furthermore, such individuals are increasingly housed in prisons rather than psychiatric facilities.[30] Those with intellectual or psychosocial disabilities face threats of inadequate care and mistreatment, in addition to the risks of self-harm and the deterioration of psychological or emotional well-being owing to the nature of incarceration, according to the UNODC *Handbook*. Closure of psychiatric institutions in some countries has led to a marked increase in the criminalization of women with disabilities.[36]

56. The incarceration of persons with disabilities without necessary services or accommodations, irrespective of any abusive intent, has been deemed illegal and degrading treatment, as well as a potential violation of the International Covenant on Civil and Political Rights.[37] In *Price v. United Kingdom*, 2001, the European Court of Human Rights found that incarceration without necessary accommodations constitutes ill-treatment.[38] When combined with pervasive discrimination, the poor living conditions and violence already present, the risks of incarceration are magnified for those women who have a disability.[39]

57. As regards violence against women with disabilities in the transnational sphere, women and girls with disabilities are at risk of being trafficked and forced into prostitution. The four major risk factors for susceptibility to trafficking are poverty, ignorance, minority status and being female. Women and girls with disabilities may fit into one or more of these high-risk categories. Further, because of the misguided belief that sex with a virgin will cure HIV/AIDS, and the stereotype that women with disabilities are virgins, they can be targeted for trafficking as sex workers.[40]

58. In some contexts, because of stereotypical views of the value of disabled female children and the lack of support available to parents with children with disabilities, parents may see trafficking of their disabled daughter as their only economic option. United Nations Children's Fund (UNICEF) reports indicate that in certain countries in the Asia-Pacific region proprietors of brothels have specifically sought out deaf girl children and adolescents, with the idea that such young people will be less able to communicate their distress or find their way back to their homes.

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[34] Prison Reform Trust, "Bromley briefings prison factfile" (December 2011).

[35] Janet I. Warren and others, "Personality disorders and violence among female prison inmates", *The Journal of the American Academy of Psychiatry and the Law* (2002), pp. 502 and 503.

[36] Disabled Women's Network Ontario, "Q & A: how are women with disabilities discriminated against?", Canadian Association of Elizabeth Fry Societies. .

[37] See in particular *Price* versus *The United Kingdom*, Application No. 33394/96, European Court of Human Rights (2001); *Mouisei v. France*, Application No. 67263/01, European Court of Human Rights (2003); *Brough v. Australia*, United Nations Human Rights Committee Communication No. 1184/2003 (2006).

[38] *Price v. the United Kingdom*, European Court of Human Rights (2001).

[39] Beth Ribet, "Naming prison rape" (see footnote 30 above). The mere perception of a physical, psychiatric or cognitive disability is sufficient to place an individual at greater risk of sexual victimization.

[40] Nora E. Groce, "Rape of individuals with disability: AIDS and the folk belief of virgin cleansing", *The Lancet*, vol. 363, issue 9422 (22 May 2004), 1663 and 1664.

One report notes that the proportion of child prostitutes who had mild developmental disabilities was six times greater than what might be expected from the incidence in the general population.[41]

D. Causes and consequences

59. The causes of violence against women with disabilities originate in social norms about the nature and type of disability and gender roles.[42] Women with disabilities face many barriers to escaping, resisting, preventing or obtaining redress for violence. Such barriers include, but are not limited to, emotional and financial dependency on the abuser; unwillingness to be stigmatized; fears regarding child custody or single-parenthood; inaccessibility or unavailability of violence prevention programmes and facilities; fear or loss of assistive devices and other supports; concerns about being believed when disclosing the abuse; and reluctance to take any action that may escalate the violence. Also when they seek assistance from police or other members of the community, their complaints may not be taken seriously or may be disbelieved, due to stigma and stereotyping.

60. Persons with physical disabilities may be more dependent on attendant care and more dependent on the abuser, physically, emotionally or financially, for care than other groups (see A/61/122/Add.1 and Corr.1). In addition, persons with disabilities are traditionally and incorrectly seen by society to be asexual.[43] This can lead to greater levels of sexual violence as they are less likely to be believed when they report such violations. Some women with disabilities may be unable to defend themselves, lack access to self-defence training or be unable to physically flee the site of violence.[44] They may therefore become particularly "easy" targets for perpetrators of violence.[45]

61. Women with disabilities face specific discrimination and targeted violence primarily because of their disability status, owing to bias among individuals and communities. For example, in some cultural and religious traditions disability is viewed as a symbol of "evil" or "sin" committed by the person or family members, thus justifying violence.[46]

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[41] UNICEF, "Violence against disabled children", United Nations Secretary-General's report on violence against children, Thematic Group on Violence against Disabled Children; findings and recommendations (2005). Available from http://www.unicef.org.

[42] Stephanie Ortoleva, "Recommendations for action to advance the rights of women and girls with disabilities in the United Nations system" (2011).

[43] S. Nemeth, "Society, sexuality, and disabled/ablebodied romantic relationships", in *Handbook of Communication and People with Disabilities*, D. O. Braithwaite and T. L. Thompson, eds. (Mahwah, New Jersey, United States, Lawrence Erlbaum, 2000).

[44] Leslie Myers, "People with disabilities and abuse" (Independent Living Research Utilization). Available from http://www.ilru.org; Astrid Aafjes, "Empowering girls and women through sport and physical activity" (Women Win).

[45] J. C. Chang and others, "Helping women with disabilities and domestic violence: strategies, limitations, and challenges of domestic violence programs and services", *Journal of Women's Health* (2003); C. A. Howland et. al., "Programs delivering abuse intervention services to women with disabilities (Houston, Texas, United States, Center for Research on Women with Disabilities, 2001).

[46] Lisa Alvares and others, "Reproductive health justice for women with disabilities", Center for Women Policy Studies (2011).

62. Women with disabilities may lack access to education, financial independence and information on how to report incidents of violence and on how to recognize and address violence, including sexual violence (see A/61/122/Add.1 and Corr.1). Also, police and law enforcement agencies may not take appropriate action to prevent or respond to such violence. Women with disabilities may be reluctant to report violence, so as to avoid discrimination, retribution, institutionalization or the loss of economic and other supports. Perpetrators may believe that such assaults will not be discovered or that the testimonies of the women with disabilities will not be credible in law enforcement and court systems.

63. Without accessible information about different programmes that provide legal aid or even basic information about the justice system, women with disabilities may not be able to claim their rights.[47] Even if women with disabilities are aware of their legal rights, the cost of legal assistance may be prohibitive for those who are economically disadvantaged. If they are able to secure the services of an attorney, the lawyer may be unaware of how to ensure that the lawyer-client relationship reaches its full potential. For example, lawyers may not always provide information in Braille or other accessible forms of communication, or provide adequate sign language interpreter services.[47] Finally, few law schools require or provide training in working with clients with disabilities or even a course requirement for disability law in general.[48] Therefore, many lawyers will have little practical or academic experience that furthers their client's interests, needs and challenges.

64. Women with disabilities may be more likely to have low self-esteem, a risk factor for domestic and other forms of violence.[49] Popular media images throughout the world contribute to the presumption that the bodies of women with disabilities are unattractive, asexual and outside the societal ascribed norms of "beauty". It also describes the "normal" female body as the presence of high cheekbones, even skin tones, long legs, and the absence of fat, wrinkles, physical disabilities and deformities.[50] This contributes to the undervaluing of women with disabilities, as well as self-devaluation by women of their own bodies, whether they have disabilities or not. Many images only depict people with disabilities as deserving of pity, thus further stigmatizing them.[51]

65. Armed conflict generates injuries and trauma that can result in disabilities and can also increase the severity of existing disabilities. For women incurring injuries, the situation is often exacerbated by delays in obtaining health care and longer-term rehabilitation. According to the 2011, *World Report on Disability*, humanitarian organizations in conflict situations do not always respond promptly and effectively, and the needs of families and caretakers are not always taken into account.

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[47] Stephanie Ortoleva, "Inaccessible justice" (see footnote 27, above).

[48] Frances Gibson, "Article 13 of the Convention on the Rights of Persons with Disabilities: a right to legal aid?", *Australian Journal of Human Rights*, vol. 15, No. 2 (2010).

[49] Donna R. Walton, "What's a leg got to do with it: black, female and disabled in America", *Disability Studies Quarterly*, vol. 22, No. 1 (2002), p. 74.

[50] Jean Kilbourne, "Beauty and the beast of advertising"; *Women in culture: a women's studies anthology*, L. J. Peach, ed. (Blackwell Publishing Inc., 1998); Killing us softly: advertising and the obsession with thinness, in *Feminist Perspectives on Eating Disorders*, P. Fallon, M. Katzman and S. Wooley, eds. (New York, Guilford Press).

[51] J. Nelson, "The invisible cultural group: images of disability", in *Images that Injure: Pictorial Stereotypes in the Media*, P. M. Lester, ed. (Praeger, 1996), pp. 119-125.

66. Women with disabilities face problems with representation and may fail to comport with society's view on women's roles generally, leading to invisibility and exclusion from meaningful participation in society.[52] Women with disabilities may also be viewed as childlike and presumed to be incompetent, which prevents them from reaching their potential as full and equal members of the community.[53]

67. Women with disabilities have fewer career opportunities owing to employer unwillingness to provide relevant accommodations; they receive lower pay; and they may be forced to take less prestigious career paths in order to be able to obtain employment.[54] Women with disabilities who have experienced violence are at increased risk of unemployment since the abuser may harass or intimidate them in the workplace, harass other employees or prevent them from going to work at all, as a mechanism of control that can result in loss of employment.

68. Women with disabilities who have experienced violence are at increased risk of homelessness. When women with disabilities attempt to flee the abusive situation (or are forced to leave the home of the abuser, which is another form of abuse), they often lose their homes. Since shelters are often inaccessible, they may have no alternative other than the streets or their abusive environment. Furthermore, the social isolation imposed by the abuser during the abuse results in the woman with disabilities severing relationships with family, friends and other support systems that could help in such situations.

69. Women with disabilities have more limitations on access to sexual and reproductive health care. Often health-care providers see them as asexual, thereby concluding that they do not require certain health-care services.[55] An analysis of the data contained in the World Health Organization World Health Survey shows a significant difference between men and women with disabilities and people without disabilities in terms of the attitudinal, physical, and system level barriers faced in accessing care.

E. Normative framework

1. International law and policy[56]

70. Early efforts by the United Nations in the 1970s included the adoption of the Declaration on the Rights of Mentally Retarded Persons (General Assembly resolution 2856 (XXVI)), followed by the Declaration on the Rights of Disabled Persons (Assembly resolution 3447 (XXX)). Those non-binding instruments reflect an important development in terms of placing disability on the international agenda, but they did not fully reflect existing human rights principles.

71. The Declaration on the Rights of Mentally Retarded Persons reflected a paternalistic medical and charity model of disability, while the Declaration on the Rights of Disabled People adopted a human rights approach as regards equal

[52] Johanna Bond, "International intersectionality" (see footnote 4 above).

[53] Disability Discrimination Legal Service, "Beyond belief" (see footnote 25 above).

[54] See *Human Rights and Disabled Persons* (United Nations publication, Sales No. E.92.XIV.4).

[55] Michelle Fine and Adrienne Asch, "Disabled women" (see footnote 3 above).

[56] Paras. 70-86 are based on: Janet E. Lord and Stephanie Ortoleva, "International norms and standards on disability: an overview of the current framework", background technical paper submitted to the secretariat of the Convention on the Rights of Persons with Disabilities (2010).

treatment, access to services, the development of capabilities, and the acceleration of social integration.

72. The International Year of Disabled Persons, adopted in 1981 (General Assembly resolution 36/77), the World Programme of Action concerning Disabled Persons (Assembly resolution 37/52) and the Decade of Disabled Persons 1983-1992 (Assembly resolution 37/53), influenced and shaped the adoption of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (Assembly resolution 48/96). The Standard Rules provide a basis for technical and economic cooperation among States, the United Nations and other international organizations. They note the existence of obstacles to rights realization; the responsibility of States to take action to remove such obstacles; and the role of persons with disabilities and their organizations in the removal of barriers. They also acknowledge that the population of persons with disabilities is diverse, thus implicitly acknowledging groups such as women with disabilities and their experiences of multiple forms of discrimination.[57]

73. The Convention on the Rights of Persons with Disabilities was adopted in 2006 and entered into force in 2008. The preamble acknowledges that disability is an evolving concept, and that the full and effective participation in society on an equal basis with others is negatively impacted by the interaction between persons with impairments and the attitudinal and environmental barriers that exist. The Convention is more progressive than the Standard Rules in its purpose to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities and to promote respect for their inherent dignity. It also reflects the "nothing about us without us" principle of inclusion of persons with disabilities.

74. The principle of non-discrimination in article 2 encompasses the commitment not to engage in discrimination on the basis of disability and to take steps to counter both direct and indirect forms of discrimination. In addition to prohibiting discrimination both on the basis of disability and other grounds, article 5 requires States to ensure the provision of reasonable accommodation, in order to promote equality and eliminate discrimination.

75. The Convention adopts a gender perspective in the preamble and in articles 3, 6, 8, 16 and 25.[58] It explicitly mandates the inclusion of women in all of the rights enumerated in the Convention, and therefore addresses the fact that the Convention on the Elimination of All Forms of Discrimination against Women does not explicitly reference women with disabilities in its core provisions.

76. The Convention on the Rights of Persons with Disabilities and Convention on the Elimination of All Forms of Discrimination against Women share many common principles, such as the overall obligations required of States under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women and article 4 of the Convention on the Rights of Persons with Disabilities. Both Conventions require States parties to enact legislative and substantive protections for women and/or persons with disabilities. Article 5 of the Convention on the

[57] *Human Rights and Disability: the Current Use and Future Potential of United Nations Human Rights Instruments in the Context of Disability* (United Nations publication, Sales No. E.02.XIV.6).

[58] M. V. Reina, M. Adya and P. Blanck, "Defying double discrimination", *Georgetown Journal of International Affairs* (2007).

Rights of Persons with Disabilities and article 4 of the Convention on the Elimination of All Forms of Discrimination against Women include provisions authorizing the use of special/specific measures to expedite and ensure the achievement of equality between the sexes, including women with disabilities. Article 8 of the Convention on the Rights of Persons with Disabilities and article 5 of the Convention on the Elimination of All Forms of Discrimination against Women emphasize the negative role that stereotypes can play in the lives of persons with disabilities, including women with disabilities, and women in general. Under both Conventions, States have the responsibility to combat/eliminate stereotypes, prejudices and harmful practices. In article 6, the Convention on the Rights of Persons with Disabilities recognizes that gender and disability stereotypes coincide to have a compounded effect on women with disabilities.

77. Two crucial aspects of human rights, legal capacity and access to justice, are incorporated in both Conventions, largely drawing on the principles of autonomy or self-determination. In the Convention on the Rights of Persons with Disabilities, articles 12 and 13 address those issues, and in the Convention on the Elimination of All Forms of Discrimination against Women article 15 addresses equality before the law. The Convention on the Rights of Persons with Disabilities incorporates both concepts of capacity to be a person before the law and legal capacity to act.

78. Article 16 of the Convention on the Rights of Persons with Disabilities, on freedom from exploitation, violence and abuse, specifically addresses the problem of gender-based offences. It provides for the protection of that freedom; educational support for persons with disabilities and their families; monitoring of facilities and programmes to serve persons with disabilities; prevention strategies; recovery programmes; and prosecution of crimes involving exploitation, violence and abuse against such persons. Additionally, it includes provisions regarding the establishment of gender and age-specific supports. Article 25 is also relevant to the issue of violence against women, in recognizing that persons with disabilities have the right to the enjoyment of the highest attainable standard of health, without discrimination on the basis of disability. This includes access to gender-sensitive health services and health-related rehabilitation, sexual and reproductive health and population-based public health programmes, all of which should be provided as close as possible to the individual's community.

79. Article 15 of the Convention on the Rights of Persons with Disabilities, requires that States parties take effective measures to prevent persons with disabilities from being subjected to torture or cruel, inhuman or degrading treatment or punishment, in particular with regard to being subjected to medical or scientific experimentation without free consent. The Committee against Torture has acknowledged that certain acts against persons with disabilities, such as imprisoning or detaining them, would constitute torture or ill-treatment.

80. Article 23 of the Convention on the Rights of Persons with Disabilities identifies that persons with disabilities have the right to retain fertility on an equal basis with others. Furthermore, sterilization cannot be made a condition for access to medical care or other benefit.

81. Articles 25 and 26 of the Convention on the Rights of Persons with Disabilities address disability prevention and rehabilitation, as an aspect of full and comprehensive human rights protection for persons with disabilities, thereby ensuring equal access and accessibility to all public health programmes.

82. As regards the trafficking of women and girls with disabilities, two provisions of the Convention on the Rights of Persons with Disabilities can be considered applicable, although they do not directly refer to the issue. Article 16 and article 27, on work and employment, can be interpreted to apply to situations of trafficking. Article 6 of the Convention on the Elimination of All Forms of Discrimination against Women addresses the suppression of trafficking and exploitation of women in general.

83. Article 11 of the Convention on the Rights of Persons with Disabilities requires that States must take all necessary measures to ensure the protection and safety of persons with disabilities in situations of armed conflict, humanitarian emergencies, natural disasters, and other situations of risk.

84. In general recommendation No. 24, the Committee on the Elimination of Discrimination against Women also discusses issues of concern to women with disabilities. The Committee recognizes that societal factors may be determinative of health status and that special attention should be given to the health needs and rights of women with disabilities, among other vulnerable groups. General recommendation No. 27 pertains to the protection of the human rights of older women and addresses women with disabilities by discussing the double discrimination and gender stereotyping older women with disabilities face, especially in regard to their access to education, health-care services, legal services and their increased susceptibility to violence. General recommendation No. 28 focuses on the core obligations of States parties under article 2 and discusses the enhanced vulnerability for discrimination that women with disabilities face in civil and penal laws, regulations and customary laws and practice. *The Declaration on the Elimination of Violence against Women 1993* (see General Assembly resolution 48/104) also makes reference to violence and women with disabilities.

85. General comment No. 5 of the Committee on Economic, Social and Cultural Rights formulates obligations of States to ensure equal rights and to eliminate discrimination against persons with disabilities in numerous areas. Significantly, the Committee articulated a connection between non-discrimination and the duty to provide reasonable accommodation. Furthermore, the Committee has stated that forced sterilization of women and girls with disabilities breaches article 10 of the International Covenant on Economic, Social and Cultural Rights.

86. In addition, the Human Rights Council Special Rapporteur on the right to education dedicated his 2007 thematic report to the issue of the right of persons with disabilities to inclusive education (A/HRC/4/29, paras. 8 and 76). He found that literacy rates for women and girls with disabilities were significantly lower than for men and boys, and that women and girls were generally subjected to more discrimination. Similarly, in his 2005 thematic report, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, focused on the right to health of persons with mental disabilities (E/CN.4/2005/51, paras. 12 and 49) and found that women with intellectual disabilities were especially vulnerable to forced sterilization and sexual violence. He advocated for measures to protect them from violence and other right to health-related abuses, whether occurring in private health-care or support services. Finally, the Special Rapporteur to monitor the implementation of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities reports annually to the

Commission for Social Development and has mainstreamed the issue of women and disabilities in his reports (see E/CN.5/2011/9).

2. Regional conventions and mechanisms

87. The African Charter on Human and Peoples' Rights (Banjul Charter) has broad provisions that provide for equality of all, including women. Article 18 of the Banjul Charter addresses States obligations to eliminate discrimination and to ensure the protection of rights of women and girls. Article 28 places a duty on individuals to respect others without discrimination. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa was adopted in 2003 and entered into force in 2005. Article 23 specifically protects women with disabilities, provides them the right to freedom from violence and discrimination and imposes a duty on the State, inter alia, to treat women with disabilities with dignity.

88. With respect to Europe, both the Council of Europe and the European Union, have their own scheme of human rights instruments. The European Convention for the Protection of Human Rights and Fundamental Freedoms, which entered into force in 1953, is the main European human rights convention. Several additional Protocols have been added to its substantive and procedural provisions.

89. In 2007, the European Parliament adopted resolution 2006/2277(INI), on the human rights of disabled people. The Council of Europe has not adopted any specific human rights instruments on disabled persons, but the European Social Charter explicitly mentions disabled persons as bearers of human rights. The concept of human rights and disability as contained has been revised. Article 15, as revised, was adopted in 1996 and ensures the right of persons with disabilities to independence, social integration and participation in the life of the community.

90. The recent Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence provides measures to protect the rights of victims, without discrimination on any ground, including disability. The Convention prohibits performing an abortion on a woman without her prior and informed consent or performing surgery that has the purpose or effect of terminating a woman's capacity to naturally reproduce, without her prior and informed consent or understanding of the procedure.

91. In Asia, the Economic and Social Commission for Asia and the Pacific proclaimed the Asian and Pacific Decade of Disabled Persons (1993-2002) in 1992. The goal of the initiative was to promote the human rights of disabled persons in the region. In 2002, the Decade was extended for an additional 10 years (2003-2012) in order to further and consolidate the gains achieved thus far.

92. The 1948 American Declaration of the Rights and Duties of Man and the 1969 American Convention on Human Rights are the relevant instruments for the Americas. The Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights of 1988 focuses on the obligation of States to promote social, economic, and cultural human rights. It includes the right to social security, as a protection from the consequences of old age and of disability, which prevents a person from securing the means for a dignified and decent existence.

93. In 1999, the Organization of American States adopted the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities. It is the only human rights treaty that defines the term disability and the phrase "discrimination against persons with disabilities". Its goals include full integration of and the furthering of justice for the disabled through legislation, social initiatives and education for the disabled and for others regarding acceptance of persons with disabilities. Furthermore, it calls on States to work on a priority basis, including on prevention of all forms of preventable disabilities and early detection and intervention, treatment and rehabilitation for persons with disabilities.[59]

IV. Conclusion

94. Ratification of the Convention on the Rights of Persons with Disabilities, the Convention on the Elimination of All Forms of Discrimination against Women and other international law instruments is widespread. However, it has been difficult to assess effective implementation of those instruments with regard to preventing and responding to violence against women with disabilities.

95. Most States lack a specific and comprehensive law, policy or programme on persons with disabilities in general or on women with disabilities in particular. States that have a disability law do not specifically address the rights of women with disabilities in general, or violence specifically. States may also have a specific law on violence against women that generally provides remedies for all women, within a non-discriminatory framework. Unfortunately, such laws are not effectively implemented in respect of women with disabilities.

96. Very few States have established dedicated institutional mechanisms, programmes or strategies such as national committees or councils on women and disabilities, although some have developed strategies based on the research conducted on violence against women with disabilities.

97. At the non-governmental organization level, there are dedicated organizations or coalitions that conduct research and provide services and training. Innovative use of the Internet has also led to the development of interactive websites where readers share information and experiences.

V. Recommendations

98. **The Special Rapporteur recommends the following measures:**

(a) **States should ensure an empowerment perspective, as opposed to a vulnerability perspective, and must apply a social model of disability, as opposed to a medical or charity model, within prevention and response work on violence against women with disabilities;**

[59] Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities, resolution 1608 (XXIX-099).

(b) **States should revoke any remaining laws that discriminate on the basis of sex/gender against women with disabilities and address gender bias against women with disabilities in the administration of justice;**

(c) **States should improve and expand disaggregated data collection (gender, age, disability), including on the prevalence, manifestations, causes and consequences of violence against women with disabilities;**

(d) **Appropriate training materials on the prevention of and response to violence against women with disabilities for all sectors should be developed, in collaboration with women with disabilities, thereby enhancing the relevance of the materials and the skills of disabled peoples;**

(e) **Country-level reforms to improve health-care services and facilities in general, including in respect of sexual and reproductive health, should be adopted. More specifically, reforms are necessary in order to reduce unnecessary imprisonment of individuals with disabilities;**

(f) **States should ensure that the justice sector is responsive to and supportive of women with disabilities who report cases of violence; should support innovative justice services, including one-stop shops, legal aid and specialized courts, in order to ensure substantive and procedural access to justice; and should involve women with disabilities in shaping and restructuring the legal system;**

(g) **Good practices in respect of alternatives to prison custody, for people with disabilities, should be developed;**

(h) **Efforts should be made to ensure that publications, presentations and other media products feature women with disabilities, thereby recognizing the importance of media images in changing perceptions, eliminating discrimination and ending violence;**

(i) **Women with disabilities should be allowed the opportunity and provided with the necessary accommodations to enable them to participate fully in forums discussing the empowerment of women and gender equality. Collaboration within women's rights groups and disabled peoples organizations and with other stakeholders involved in activities to combat violence against women should be enhanced with a view towards including women with disabilities in related dialogue, strategy and institution-building processes;**

(j) **States should be encouraged to respond to requests for information by relevant United Nations mechanisms;**

(k) **United Nations agencies and programmes should be increasingly engaged in the issue of violence against women with disabilities, including in the production of specific reports on the implementation of the Convention on the Rights of Persons with Disabilities;**

(l) **Establishment of a mechanism by which the special procedures of the Human Rights Council can collaborate with the Special Rapporteur on disability of the Commission on Social Development should be encouraged.**